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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,796	11/13/2003	Diederik van Batenburg	2002-IP-007282 30545.56	4250

7590 09/21/2006

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EXAMINER

TUCKER, PHILIP C

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/713,796

Applicant(s)

VAN BATENBURG ET AL.

Examiner

Philip C. Tucker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,6-12 and 17-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,2,6-12 and 17-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6-9, 11, 12, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Briscoe (4336145) in view of Loftin (4536297).

Briscoe teaches a concentrate which comprises water, a hydratable polymer and an inhibitor for inhibiting the hydration of the polymer (see abstract). Briscoe teaches that the hydratable polymers may be guar derivatives as in the present claims (see column 3, lines 29-42). The use of a boron compound or sodium hydroxide as inhibitors, as in claims 6-8, is disclosed by Briscoe (column 3, line 61 column 4, line 8). The use of polymers such as hydroxyethyl cellulose as a viscosifier and thus suspending agents, as in claim 9 is taught (column 6, lines 57-63). Briscoe differs from the present invention in not teaching the use of a formate salt. Briscoe however teaches that when the concentrate is used to produce subterranean treating fluids, it preferably contains clay stabilizers, such as water soluble potassium salts (column 5, lines 27-34). Loftin teaches that various salts, including potassium formate may be used as clay stabilizers in well treatment fluids (column 3, lines 4-36). It would be obvious to one of ordinary skill in the art to use the clay stabilizing potassium formate of Loftin, in the fluid of Briscoe, given the teaching of Briscoe that water soluble clay

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stabilizing potassium salts are preferably used when the concentrate is used in well treatment.

3. Claims 1, 9, 10, 11, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Briscoe in view of Loftin as applied to claims 1, 6-9, 11, 12 and 17-20 above, and further in view of Dobson (5629271).

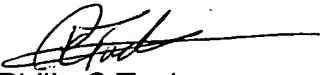
Briscoe in view of Loftin is taught above. Briscoe in view of Loftin differs in not teaching the use of welan as a suspending agent. Dobson teaches that welan and hydroxyethyl cellulose may be alternatively used as viscosifiers or suspending agents in well treating fluids (column 3, lines 17-29). It would thus be obvious to one of ordinary skill in the art to utilize the welan of Dobson for the hydroxyethyl cellulose disclosed by Briscoe, given the teaching of Dobson that such welan and hydroxyethyl cellulose may be alternatively used in well treatment fluids.

4. Applicant's arguments have been considered and some are deemed persuasive with respect to the previous rejections. In particular, the rejections under 35 USC 102 fail to specify the present guar or derivatives thereof. In Burdick, example 4, a thick gel was formed with guar indicating that the polymer was hydrated. Korzilius fails to teach the guar compounds as in the amended claims. Applicant's arguments with respect to Briscoe in view of Clark-Sturman are deemed persuasive, since there would be no motivation to combine the teaching of the concentrate of Briscoe with the solutions of Clark-Sturman. New rejections are presented herein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C. Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Philip C Tucker  
Primary Examiner  
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